



SBA Information Notice

TO: All SBA Employees, 7(a) Lenders, and Certified Development Companies

CONTROL NO.: 5000-18012

EFFECTIVE: 9/14/2018

SUBJECT: Updated SBA Form 159

The U.S. Small Business Administration (SBA) is announcing the update and release of SBA Form 159, Fee Disclosure and Compensation Agreement. SBA's Office of Financial Assistance (OFA) has simplified this collection of information by combining SBA Form 159(7a) and SBA Form 159(504) into one document titled "SBA Form 159." The revised form will serve both the 7(a) and the 504 Loan Programs.

SBA Lenders are required to use the revised form immediately; however, for applications currently in process, SBA Lenders may continue to use the previously approved version. Beginning on November 1, 2018, SBA will only accept the revised version of the form.

SBA Form 159 is used by the 7(a) and 504 loan programs to collect information about Agents, the services they provide, compensation rendered, and who paid the compensation.

The changes to the updated form include the following:

1. Changed the term "Lender" to the more accurate term "SBA Lender," which is defined in 13 CFR § 120.10 as "a 7(a) Lender or Certified Development Company (CDC). This term includes SBA Supervised Lenders."
2. Added citations to applicable SOP and CFR provisions in an effort to reduce duplication of information found in Agency regulations and SBA SOP 50 10;
3. Revised the instructions to more clearly identify the parties that are required to complete the form;
4. Addressed areas on the form that were frequently misunderstood or misinterpreted by:
 - Redesigning the form to group all identifying information and information on compensation paid in one central and summarized location. This promotes transparency, ensures that the Applicant is fully informed of all fees being charged, and allows SBA to more easily carry out the legislative mandate to monitor fees paid by the Applicant in any matter involving SBA assistance;
 - Adding a statement that the Agent may not be compensated by both the Applicant and SBA Lender for the same service. Furthermore, any Agent employed by the SBA Lender must be paid by the SBA Lender and those fees cannot be passed on to the Applicant;

- Providing a check box to indicate that required itemization details are attached when the fee exceeds a pre-determined dollar threshold.
5. Clarified the language in the Applicant’s certification and added the following statement in bold below it:
- “Applicant must not sign this form until all required services and fee information is disclosed.”
6. Revised the structure of the SBA Lender’s certification to clarify and number existing statements, and added the following new statements:
- “(4) if SBA deems any portion or all of the fees charged in connection with the application for or making of the loan to be unreasonable or prohibited, the SBA Lender agrees to refund that amount to the Applicant”;
 - “(5) it has consulted the System for Awards Management’s (SAM) Excluded Parties List System or any successor system to ensure that the Agent is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency. SBA Lender also certifies”; and
 - “(6) any fee it has charged is not a standardized amount and all fees charged to the Applicant comply with SBA Loan Program Requirements.”
7. Revised the structure of the Agent’s certification to number the statements; clarified that the Agent must disclose compensation that has been charged or paid by the Applicant or the Lender, not just the Applicant; and added the following new statement:
- “(4) if SBA deems any portion or all of the fees charged in connection with the application for or making of the loan to be unreasonable or prohibited, the Agent agrees to refund that amount to the Applicant. If the certification is made by a legal entity (e.g., corporation, limited liability company), execution of the certification must be in the legal entity’s name by a duly authorized officer or other entity representative; if by a partnership, execution of the certification must be in the partnership’s name by a general partner.”

Notification and Questions: SBA Field Offices must notify 7(a) Lenders and Certified Development Companies about the updates to the forms. Questions concerning this Notice should be directed to the Lender Relations Specialist in the local SBA Field Office. The local SBA Field Office may be found at <https://www.sba.gov/tools/local-assistance/districtoffices>.

Dianna L. Seaborn
Director
Office of Financial Assistance